

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTONIO GALLEGOS, KRISTIAN PETTINE,
ANDRE GALLEGOS, and K. L. P. L., a minor child,

Plaintiffs,

vs.

Case No. 12-CV-00224 LH/KBM

CITY OF ESPAÑOLA, a municipal corporation,
JOE MARTINEZ, individually and in his official capacity;
JEREMY APODACA, individually and in his official capacity;
ROBERT VIGIL, individually and in his official capacity;
CITY OF ESPANOLA OFFICERS and SUPERVISORS JOHN DOES 1 through 10,
individually and in their official capacities.

Defendants.

**ANSWERS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES and REQUEST FOR
PRODUCTION TO DEFENDANT, CITY OF ESPANOLA**

Interrogatories

INTERROGATORY NO. 1:

Identify all persons answering or supplying information used in answering these
Interrogatories.

ANSWER:

Francisco F. Galvan
Records Supervisor
Department of Public Safety
City of Espanola

Stephanie Martinez
Human Resources Analyst
City of Espanola

Eric F. Garcia, Chief
Director of Public Safety
City of Espanola

Exhibit 1

INTERROGATORY NO. 2:

State the name, address, and business telephone number of each person with personal knowledge regarding the facts and circumstances surrounding the happenings of the occurrences referred to in the second amended complaint?

ANSWER:

Said names are included either in the documents listed on the Joint Status Report and Provisional Discovery Plan on pages 12 – 13 under the heading Defendants' Exhibits or listed on page 2 of Espanola Defendants' Initial Disclosure. These documents have already been produced to you.

INTERROGATORY NO. 3:

State and describe in detail all evidence including documents, affidavits and/or statements not in the Report of Investigation upon which you intend to rely, or submit at the trial in this matter.

ANSWER:

Such evidence is included either in the documents listed on the Joint Status Report and Provisional Discovery Plan on pages 12 – 13 under the heading Defendants' Exhibits or listed on page 2 of Espanola Defendants' Initial Disclosure. These documents have already been produced to you.

INTERROGATORY NO. 4:

What is present job title of each person with personal knowledge named in interrogatory # 2 and what are their present job duties?

ANSWER:

This information can be found either in the documents listed on the Joint Status Report and Provisional Discovery Plan on pages 12 – 13 under the heading Defendants' Exhibits or listed on page 2 of Espanola Defendants' Initial Disclosure. These documents have already been provided to you.

Exhibit 1

INTERROGATORY NO. 25:

For any training identified in YOUR answer to interrogatory 23, was there continued or refresher training? If yes, please identify all training materials, booklets, outlines, power-points which were involved in such training.

ANSWER:

See Answer to Interrogatory No. 23.

Plaintiffs' Requests for Production to Defendant, CITY OF ESPANOLA

REQUEST FOR PRODUCTION NO. 1:

Any and all materials identified in answer to any interrogatories served upon the YOU by the plaintiffs.

RESPONSE:

The DVD accompanying the response to your discovery requests contains the following documents which were identified in, or used to provide information for the City of Espanola's discovery responses. These documents are also responsive to several of your requests for production:

1. Espanola Police Department ("EPD") Disciplinary Procedures;
2. EPD's Less Lethal Weapons Procedures;
3. EPD's Hiring SOG;
4. EPD's Operating Directives;
5. EPD's Insurance Declaration page;
6. EPD's Personnel file on Robert Vigil; and,
7. EPD's Personnel file on Jeremy Apodaca.

In addition, other documents identified in, or used to provide information for, the City of Espanola's discovery responses, are listed in both the Joint Status Report and Provisional Discovery Plan on pages 12 – 13 under the heading, and listed on page 2 of the Espanola Defendants' Initial Disclosures. These documents, which have already been produced to you, are also responsive to several of your requests for production.

Exhibit 1

REQUEST FOR PRODUCTION NO. 2:

Any and all materials used or relied upon by the YOU in preparing answers to any of the plaintiffs' interrogatories.

RESPONSE:

See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 3:

The names and addresses of any and all expert witnesses contact or retained by the defendants or defense counsel in connection with any aspect of this litigation.

RESPONSE:

None.

REQUEST FOR PRODUCTION NO. 4:

Any and all written memoranda, reports, correspondence, documents, photographs, video or audio tapes, or other writings or recordings relating in any way to all incidents described in plaintiffs' second amended complaint, including but not limited to the following items:

- a. a list of all physical evidence seized, viewed or photographed;
- b. any and all photographs, videos, movies, diagrams, and memoranda related to the physical scene or to Plaintiff;
- c. any and all general investigative reports, including internal investigations of civilian complaints arising out of incidents involving Defendants, Robert Vigil and Jeremy Apodaca between 2007 and 2010;
- d. any and all reports, records, or recordings of radio calls regarding the incident, either prior to, during, or subsequent to the incident set forth in the second amended complaint;
- e. any and all written or otherwise recorded statements of civilian witnesses to the incident;
- f. any and all written or otherwise recorded statements of any City of Espanola

Exhibit 1

Police Department defendant(s), including the notes taken by the interviewer;

- g. any and all written or otherwise recorded statements of any police officers or other person who were witnesses to the incident or had any contact with the case;
- h. any and all booking sheets relating to the incident;

RESPONSE:

See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 5:

Any and all training materials, orders, directives, reports, memoranda, script, rules, regulations, guidelines, and summaries issued by the City of Espanola or any of its agencies, including but not limited to its police department and its prosecuting attorney's office, governing the use of force by an officer in making an arrest and/or probable cause for making an arrest, concerning the standards in effect on July 31, 2010 which were to be used in determining when the use of force on the part of a police officer is legal and justified, including but not limited to the following:

- a. all such materials used in the training of police officers (course outlines, books, manuals, brochures, films, filmstrips, tape recordings, and other audio visual material, and so forth; and
- b. all such materials issued at any time to active duty police officers (orders, memoranda, brochures, leaflets, scripts, and so forth.

Exhibit 1

REQUEST FOR PRODUCTION NO. 11:

A copy of the complete personnel files, including the complete disciplinary record for Defendants, Robert Vigil and Jeremy Apodaca.

RESPONSE:

See Answer to Request for Production No. 10.

REQUEST FOR PRODUCTION NO. 12:

Any and all police manuals, special orders, command/operational memos, orders, and directives governing the operation of the City of Espanola Police Department and its officers.

RESPONSE:

See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 13:

Any and all City of Espanola standard operating procedures, ordinances or statutes governing or pertaining to its' Police Department or employees, in effect on July 31, 2010.

RESPONSE:

See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 14:

Any and all photographs of any scene of events described or referred to in the second amended complaint.

RESPONSE:

See Response to Request for Production No. 1.

Exhibit 1

REQUEST FOR PRODUCTION NO. 15:

Any and all photographs, films or videotapes of any plaintiff, other participants in, or other witness to any of the events which are the subject of this lawsuit, or any of the said events themselves or of the scene of any such events.

RESPONSE:

See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 16:

Any and all tangible materials, written materials, or other items which may be offered as exhibits at the trial of this case.

RESPONSE:

A decision is still being made regarding exhibits.

REQUEST FOR PRODUCTION NO. 17:

Any Electronically Controlled Device (“ECD” also known as “Taser Gun”) policy or policies.

RESPONSE:

See Response to Request for Production No. 1.

REQUEST FOR PRODUCTION NO. 18:

All ECD records for the ECD use on plaintiff, Antonio Gallegos, on July 31, 2010, including record storage function including time and date the ECD was fired.

Exhibit 1